

KENNETH E. KELLER (SBN: 71450) [KKeller@kksrr.com](mailto:KKeller@kksrr.com)  
MICHAEL D. LISI (SBN 196974) [MLisi@kksrr.com](mailto:MLisi@kksrr.com)  
KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP  
114 Sansome Street, 4<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 249-8330  
Facsimile: (415) 249-8333

Attorneys for Plaintiff and  
Cross-defendant PANOPTX, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PANOPTX, INC., a California corporation,

Plaintiff,

v.

PROTECTIVE OPTICS, INC., a California  
corporation,

Defendant.

And Related Counterclaim.

Case No.: 3:06-cv-07610 MHP

**STIPULATION AND ~~PROPOSED~~  
ORDER RE BRIEFING ON MOTION FOR  
SUMMARY JUDGMENT**

**Dept: Courtroom 15, 18th Floor  
Judge: Hon. Marilyn Hall Patel**

Plaintiff and Counterclaim-Defendant Panoptx, Inc. ("Panoptx") and Defendant and  
Counterclaimant Protective Optics, Inc. ("Protective Optics") by and through their undersigned  
counsel, state and agree as follows:

WHEREAS, on April 9, 2007, the Court held an initial Case Management Conference in this  
case, during which the Court set a schedule for Protective Optics to file its motion for summary  
judgment of invalidity;

WHEREAS, the Court ordered Protective Optics to file its summary judgment motion by

June 25, 2007, Panoptx to file its Opposition /Rule 56(f) declarations by July 16, 2007, Protective Optics to file its reply brief by July 23, 2007, and set a hearing on the motion for August 20, 2007;

WHEREAS, at the initial Case Management Conference the Court also ordered Protective Optics to disclose its invalidity position to Panoptx by no later than April 23, 2007;

WHEREAS, Protective Optics wrote to Panoptx on April 24, 2007, stating its invalidity arguments and identifying the prior art on which it was relying and offering Panoptx an additional day to conduct discovery relating to the references, to which Panoptx did not respond;

WHEREAS, the Court stated at the initial Case Management Conference that the parties could agree to modify this schedule to the extent necessary;

WHEREAS, pursuant to that statement, the parties have previously agreed to make one change to the schedule, submitting a stipulated request to re-set the hearing on the motion for summary judgment from August 20, 2007 until September 24, 2007, which the Court granted on June 7, 2007;

WHEREAS, on June 18, 2007, Protective Optics wrote to Panoptx and disclosed additional prior art references on which it intended to rely in connection with its upcoming motion for summary judgment of invalidity;

WHEREAS, on or about June 20, 2007, the parties met and conferred about the June 18<sup>th</sup> disclosure and agreed that Panoptx should have additional time to prepare its response to Protective Optics' motion for summary judgment;

WHEREAS, the parties agreed to extend the deadline for Panoptx's opposition to August 6, 2007, and the deadline for Protective Optics' reply brief to August 13, 2007;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties to this action, by and through their respective counsel of record, and subject to the approval of the Court, that the deadline for Panoptx to file its opposition to Protective Optics' motion for summary judgment of invalidity should be extended until August 6, 2007, that the deadline for Protective Optics to file its reply brief should be extended until August 13, 2007, and that the July 25, 2007 deadline for Protective Optics to file its summary judgment motion and the September 24, 2007 hearing date

1 should remain the same.

2 **IT IS SO STIPULATED.**

3 Dated: June 21, 2007

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

4  
5 By: \_\_\_\_\_/s/

6 Michael D. Lisi  
7 Attorneys for Plaintiff and Cross-defendant  
8 PANOPTX, INC.

9 Dated: June 21, 2007

GREENBERG TRAURIG, LLP

10  
11 By: \_\_\_\_\_/s/

12 Daniel T. McCloskey  
13 Attorneys for Defendant and  
14 Cross-Complainant PROTECTIVE OPTICS, INC.

15 I hereby attest that I have been authorized by Daniel T. McCloskey to execute on his behalf  
16 this Joint Case Management Statement and [Proposed] Order.

17 Executed on this 21st day of June, 2007 at San Francisco, California.

18 \_\_\_\_\_/s/ Michael D. Lisi

19 MICHAEL D. LISI

20  
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

22  
23 Dated: 6/22/2007

